

**CALENDAR ITEM
C12**

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S 3

02/09/16
PRC 3745.9
B. Terry

AMENDMENT OF LEASE

LESSEE:

City of Napa
P.O. Box 660
Napa, CA 94559

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Napa River, adjacent to Kennedy Park in the city of Napa, Napa County.

AUTHORIZED USE:

Continued use and maintenance of the John F. Kennedy boat ramp previously authorized by the Commission; and maintenance dredge of a maximum of 40,000 cubic yards of material in the Napa River at the John F. Kennedy boat ramp to maintain a navigable depth. Dredged material will be disposed of at the U.S. Army Corps of Engineers' designated disposal site SF-9 (Carquinez Strait), Cullinan Ranch Restoration Project, the Napa County Flood Control and Water Conservation District's Imola Avenue site, and/or other U.S. Army Corps of Engineers' approved disposal sites.

LEASE TERM:

25 years, beginning August 23, 2013.

CONSIDERATION:

No monetary consideration is due for the lease because it is for the public use and benefit and because there is no commercial benefit from the project and the dredged material may not be sold.

PROPOSED AMENDMENT:

Amend the lease to:

1. Extend the dredging area to include the Upper Napa River Federal Navigation Channel and proposed dredging of up to a maximum of 100,000 cubic yards

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of material from the federal channel throughout the remaining term of the lease.

2. Delete the existing Exhibit A, Legal Description and replace with the attached Exhibit A, Legal Description;
3. Include the attached Exhibit B, Site and Location Map;
4. Revise special lease provisions to address the proposed dredging activity;

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The proposed lease amendment ("Project") authorizes maintenance dredging around the existing public boat ramp that allows members of the public to launch boats into the Napa River, free of charge. Recreational boating is water-dependent and is generally consistent with the common law public trust doctrine. This access point facilitates a plethora of public trust uses, including but not limited to, navigation, fishing, and water-related recreation. The expanded dredging improves access to these uses and improves general navigability of the river.

The proposed lease amendment includes certain provisions protecting the public use of the proposed lease area by requiring the City to obtain necessary permits and limit the dredging activity to what is necessary. The lease amendment also requires the City to conduct all dredging work safely and restricts the City from using the dredged material for commercial purposes. Dredge material will be deposited at the Napa County Flood Control and Water Conservation District facility. Because the boat ramp is in a public park, the Project does not restrict public access to the river, except minimally during a limited time period when the dredging work is being carried out. The lease has a limited term of 25 years, which allows the Commission flexibility if it determines that the public trust needs of the area change over time.

The ramp has existed for many years at this location. The dredging activity will not significantly alter the land, the lease does not alienate the

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State's fee simple interest, nor does the Project permanently impair public rights. Based on the foregoing, Commission staff believes that the Project will not substantially interfere with public trust needs at this location and at this time and for the foreseeable term of the proposed lease.

For all the reasons above, Commission staff believes the issuance of this lease amendment is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. On September 20, 2013, the Commission authorized the termination of a Public Agency Permit No. PRC 3745.9 and issuance of a General Lease – Public Agency Use to the city of Napa (City) for the continued use and maintenance of the John F. Kennedy boat ramp and maintenance dredge of a maximum of 40,000 cubic yards of material to allow for ingress and egress use of the boat ramp. That lease will expire on August 22, 2038.
2. The Lessee has now applied to amend its lease to extend the maintenance dredging area to include the Upper Napa River Federal Navigation Channel (Channel) of the historic bed of the Napa River. The proposed area begins southerly of the Third Street Bridge and continues northerly of the confluence of the Napa River and Asylum Slough. Historically, the Channel was dredged as part of the overall U.S. Army Corps of Engineers Operations and Maintenance dredging (USACE O&M). However, the Channel has not been dredged since approximately 1997. The Channel is used by the public for recreational use and the City requires removal of sediment within the Channel to maintain safe navigation. The City proposes dredging a maximum of 100,000 cubic yards of material from the channel throughout the remaining term of its lease. The first dredging is to take place in 2016 with the anticipated removal of approximately 50,000 cubic yards of material. The 100,000 cubic yards from the federal channel is in addition to the previously authorized dredging of 40,000 cubic yards from the John F. Kennedy Boat Ramp area.
3. The dredging operations will be conducted using (and is limited to) clamshell bucket/excavation dredging. All dredge material will be disposed of at an existing offsite permitted bermed facility owned by the Napa County Flood Control and Water Conservation District. This disposal site was specifically constructed to accept dredged materials from the USACE O&M. If it is determined that the volume of dredged

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material is too large to be disposed of at the above site, an alternative approved location will be used.

4. Staff recommends the issuance of this amendment as it promotes Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, Title 14, section 15304, example (g).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers
San Francisco Bay Regional Water Quality Control Board
California Department of Fish and Wildlife

EXHIBITS:

- A. Legal Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, Title 14, section 15304, example (g).

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PUBLIC TRUST AND STATE'S BEST INTEREST:

Find that the proposed lease amendment will not substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 3745.9, a General Lease – Public Agency Use, effective February 9, 2016, to replace the existing Exhibit A, Legal Description with the attached Exhibit A, Legal Description; include the attached Exhibit B, Site and Location Map (for reference purposes only); extend the dredging area to include the Upper Napa River Federal Navigation Channel and proposed dredging of up to a maximum of 100,000 cubic yards of material from the federal channel throughout the remaining term of the lease; and include special lease provisions related to the proposed dredging; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT "A"
LEGAL DESCRIPTION

PRC 3745.9

PARCEL 1-DREDGE LEASE AREA

A parcel of partially filled tide and submerged land situate adjacent to Swamp and Overflowed Survey Numbers 79 and 80, lying within the current and historic bed of the Napa River, County of Napa, State of California, described as follows:

COMMENCING at a railroad spike on the westerly prolongation of the centerline of Kaiser Road, distant thereon South 86°33'12" West 1,032.34 feet from the most westerly well type monument set along said westerly prolongation as shown on the map entitled "Final Map of Enterprise Industrial Park-Unit No. 1" filed August 1, 1973 in Book 10 of Maps at Pages 69 and 70 in the office of the Napa County Recorder;

Thence (1) North 00°11'16" East 30.06 feet to the southerly line of the parcel of land described in the deed to Joseph and Helen Garelo, within the County of Napa, State of California recorded May 30, 1986 in Volume 1445 of Official Records at Page 984 in the office of the Napa County Recorder;

Thence (2) South 86°33'12" West 10.02 feet along said southerly line to a point on the easterly line of the 60.00 foot wide Southern Pacific Railroad Company right-of-way;

Thence (3) North 00°11'16" East 2,832.67 feet along said easterly line to a point;

Thence (4) Leaving said easterly line North 86°01'36" West 768.26 feet to a point within the historic bed of the Napa River, said point being the **TRUE POINT OF BEGINNING**;

Thence (5) South 68°32'47" West 337.36 feet;

Thence (6) North 21°27'13" West 310.63 feet;

Thence (7) North 51°24'50" East 66.30 feet;

Thence (8) South 81°08'46" East 317.38 feet;

Thence (9) South 21°27'13" East 170.00 feet to the **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Left Bank of the Napa River.

Total computed area containing 2.04 acres more or less.

PARCEL 2-RAMP LEASE AREA

A parcel of partially filled tide and submerged land situate adjacent to Swamp and Overflowed Survey Numbers 79 and 80, lying within the current and historic bed of the Napa River, County of Napa, State of California, described as follows:

COMMENCING at a railroad spike on the westerly prolongation of the centerline of Kaiser Road, distant thereon South 86°33'12" West 1,032.34 feet from the most westerly well type monument set along said westerly prolongation as shown on the map entitled "Final Map of Enterprise Industrial Park-Unit No. 1" filed August 1, 1973 in Book 10 of Maps at Pages 69 and 70 in the office of the Napa County Recorder;

Thence (1) North 00°11'16" East 30.06 feet to the southerly line of the parcel of land described in the deed to Joseph and Helen Garelo, within the County of Napa, State of California recorded May 30, 1986 in Volume 1445 of Official Records at Page 984 in the office of the Napa County Recorder;

Thence (2) South 86°33'12" West 10.02 feet along said southerly line to a point on the easterly line of the 60.00 foot wide Southern Pacific Railroad Company right-of-way;

Thence (3) North 00°11'16" East 2,832.67 feet along said easterly line to a point;

Thence (4) Leaving said easterly line North 89°48'44" West 693.62 feet to a point on the meander line of ordinary high water mark of the Left Bank of the Napa River as shown on the map entitled "Record of Survey of a Portion of Napa State Hospital" filed February 20, 1962 in Book 6 of Surveys at Pages 56 through 58 inclusive in the office of the Napa County Recorder, said point being the **TRUE POINT OF BEGINNING**;

Thence (5) Leaving said meander line North 51°33'09" West 95.65 feet;

Thence (6) North 84°39'17" West 149.13 feet;

Thence (7) North 4°27'39" East 65.01 feet;

Thence (8) South 84°54'37" East 117.51 feet;

Thence (9) North 34°26'34" East 129.83 feet to a point on said meander line;

Thence (10) South 46°30'16" East 98.99 feet along said meander line to an angle point therein;

Thence (11) South 14°46'15" West 172.39 feet along said meander line to the **TRUE POINT OF BEGINNING.**

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Left Bank of the Napa River.

Total computed area containing 0.644 acres feet more or less.

The Basis of Bearings for this description is as shown on the map entitled "Record of Survey City of Napa Control Network Phase 1 & 2" filed April 6, 2012 in Book 41 of Surveys at Pages 44 through 47 inclusive in the office of the Napa County Recorder. All distances are grid and in U.S. Survey Feet.

PARCEL 3 – DREDGE AREA

All that portion of the tide and submerged lands of the historic bed of the Napa River, lying southerly of Third Street, located in the City of Napa, and Northerly of the confluence of the Napa River and Asylum Slough.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the Left and Right banks of the Napa River.

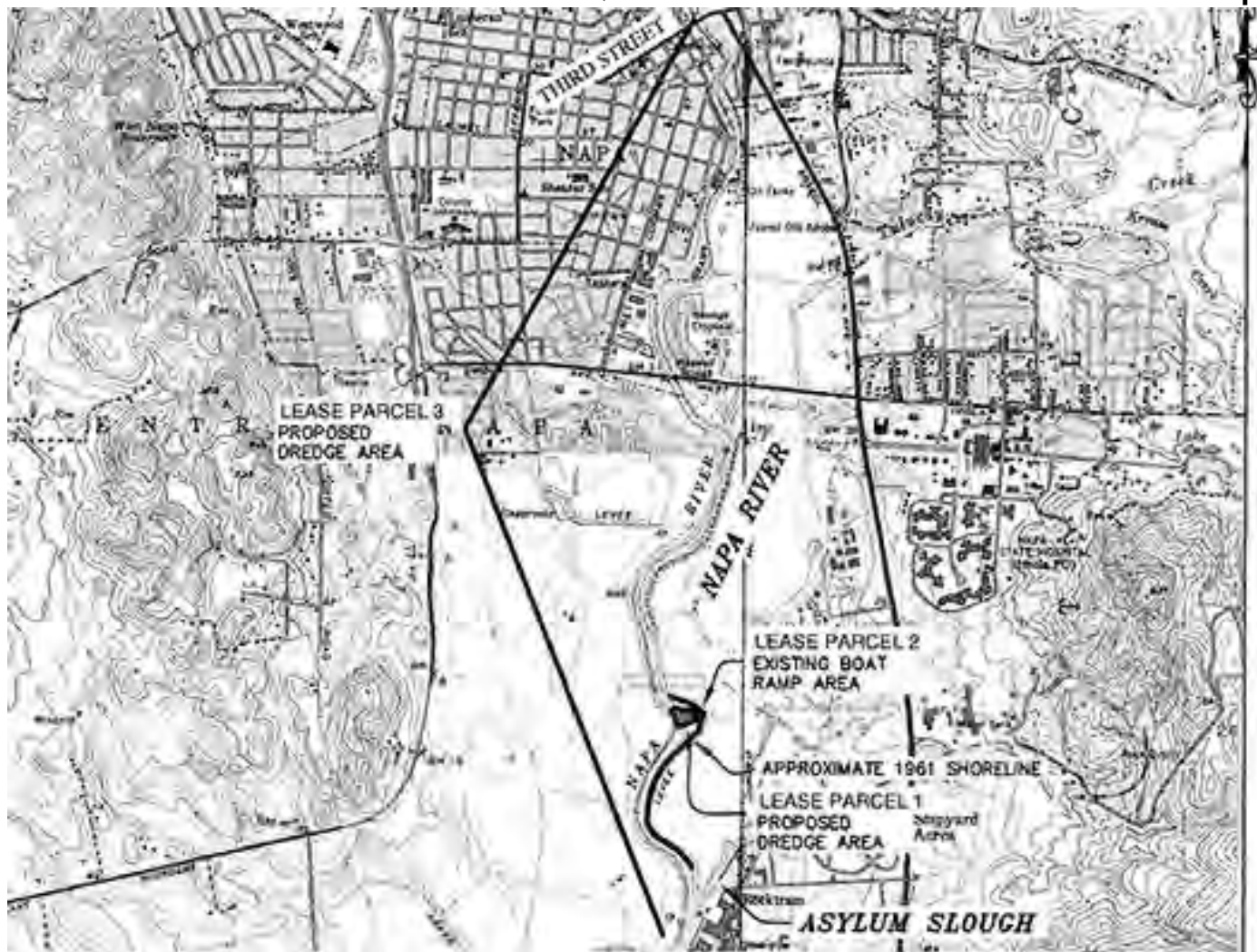
END OF DESCRIPTION

Parcels 1 and 2 based on that original description prepared by Mark P. Andrilla, PLS 8985, on 07/18/2013, as found in PRC file 3745. Parcel 3 prepared by the California State Lands Commission Boundary Unit 01/2016.



NO SCALE

SITE



CITY OF NAPA, NAPA RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 3745.9
CITY OF NAPA
GENERAL LEASE -
PUBLIC AGENCY USE
NAPA COUNTY



DJP 02/04/2016